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## Courts--Construction of Local Statutes by Foreign Court--Survival of Criminal Action After Corporate Dissolution

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## ABSTRACTS OF RECENT CASES

CONSTITUTIONAL LAW—PUBLIC HEALTH—MANDAMUS.—Appellee sought mandamus commanding appellant to issue appellee a permit to distribute milk pursuant to W. VA. CODE c. 16, art. 7, § 5 (Michie 1955). Appellee contends that there is equivalency between the inspection requirements of the state in which its dairy is located and those of West Virginia, that refusal to grant the permit was an unwarranted obstruction of interstate commerce, and that such refusal was an abuse of discretion. The district judge found in accord with these contentions. *Held*, that the statute is not violative of appellee's constitutional rights, the refusal to grant the permit was within the appellant's discretion, and this discretion had not been abused, therefore, mandamus will not lie. *Sleeth v. Dairy Products Co.*, 228 F.2d 165 (2d Cir. 1955).

The case is sound as to the question of mandamus on the basis of *Decatur v. Paulding*, 39 U.S. (14 Pet.) 497 (1840). The constitutional question raised is more difficult. In *Dean Milk Co. v. Madison*, 340 U.S. 349 (1950), the Supreme Court found a municipal ordinance regulating milk distributors to be violative of the commerce clause of the Constitution. U. S. CONST. art. I, § 8. However, in the *Dean* case, *supra*, the court indicated that an act based on the model milk code recommended by the United States Public Health Service, which has no geographical limitations, would be valid. The West Virginia act and regulations invoked pursuant thereto conform to the model code. W. VA. CODE c. 16, art. 7, § 5 (Michie 1955). The case would, therefore, seem sound on this basis, also. See Annot., 14 A.L.R.2d 103 (1950), for a discussion of the validity of *municipal* ordinances imposing requirements on outside producers of milk to be sold in the city, which presents a problem analogous to the principal case.

H. R. A., Jr.

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COURTS—CONSTRUCTION OF LOCAL STATUTES BY FOREIGN COURT—SURVIVAL OF CRIMINAL ACTION AFTER CORPORATE DISSOLUTION.—On appeal, the court of appeals for the tenth circuit *held*, affirming the federal district court for the district of Colorado, and approving the lower court's reasoning, that the criminal proceedings against the West Virginia subsidiary abated upon its merger with the parent corporation. *United States v. United States Vanadium Corp.*, 230

F.2d 646 (10th Cir. 1956). The district court's decision was commented upon in 58 W. VA. L. REV. 187 (1956).

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#### CRIMINAL LAW—INSANE PERSONS—COMPETENCY TO STAND TRIAL.

—Petitioner was indicted for felonies in violation of federal statutes by a grand jury of the western district of Missouri. Petitioner signed a waiver of trial in the western district of Missouri and was transferred to the eastern division of the northern district of Ohio. After a hearing pursuant to 18 U.S.C. §§ 4244-4248 (1949), during which it was determined that the petitioner's mental condition was such that it was doubtful that he could have understood the significance of the waiver, the district court of Ohio remanded the case to the district court for the western district of Missouri for disposition. That court transferred petitioner to the custody of the State of Ohio as being mentally incompetent. While in Ohio, the examining psychiatrist found that petitioner had recovered, and the Ohio authorities released him. Petitioner was rearrested, examined again by court appointed psychiatrists, and a hearing was held at which there were conflicting reports by psychiatrists. The district court for the western district of Missouri found that petitioner was mentally incompetent to stand trial and ordered him committed to the custody of the attorney general. The court of appeals for the eighth circuit affirmed, one judge dissenting. Certiorari granted. *Held*, that the assertion of the authority is pursuant to a valid statute which is within the congressional power under the necessary and proper clause of U. S. CONST. art. I, § 8, cl. 18, and that the statute deals with mental disorders which are permanent as well as temporary in nature. *Greenwood v. United States*, 76 Sup. Ct. 410 (1956).

For a discussion of the problems involved in application of 18 U.S.C. §§ 4244-4248, see Comment, 58 W. VA. L. REV. 94 (1955).

H. R. A., Jr.

#### DOMESTIC RELATIONS—DESERTION—NECESSARY INTENT TO ABANDON.—

*P*, as committee for *W*, insane wife of *D*, sues for separate maintenance and support of *W*. *W* left *D* and approximately four months later entered a medical center for the mentally disturbed. As to justification of *W*'s action, the evidence is conflicting. The